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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,585	01/15/2004	Gary Wayne Bagnall	37370-32	7985

24318 7590 11/30/2006

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EXAMINER

ROWAN, KURT C

ART UNIT	PAPER NUMBER
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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/759,585
Filing Date: January 15, 2004
Appellant(s): BAGNALL ET AL.

MAILED

NOV 30 2006

GROUP 3600

Joseph G. Swan
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed September 8, 2006 appealing from the Office action mailed January 30, 2006.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5274949	BEATON	1/1994
5363589	FLYNN	11/1994

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 2 and 13 are rejected under 35 USC 102(b) as being anticipated by Beaton.

Claims 3, 7, 10, 20-23 are rejected under 35 USC 103(a) as being obvious over Beaton.

Claims 1, 4, 5, 6, 8, 9, 11, 12, 14-16, 18-19 are rejected as being obvious over Beaton in view of Flynn.

(10) Response to Argument

Applicant argues that Beaton is not reflective or no more than *de minimis* but Applicant has not set an objective standard for what is a reflective surface and therefore the examiner is entitled to use the broadest reasonable interpretation standard as to the meets and bounds of the claim. Applicant argues that even if the disc 27 of Beaton was moved to the top of the lower section that the hole in the disc would result in insects being able to escape and the cover would be largely ineffective. However, since the funnel has an opening to let insects in and they largely do not escape, the cover 27 would serve the same function. Applicant argues that while uv or ultra violet lights are known there is no motivation to provide Beaton with a uv light. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958

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F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, there is motivation to provide Beaton with an ultra violet light and that is: different insects are attracted to different wavelengths of light. As to the colors such as the dark and light parts of the trap, since insects are attracted to contrast between light and dark, one of ordinary skill in the art would have found it obvious to employ dark and light areas of the trap. Applicant argues that routine experimentation is not suggested by Beaton as to the amount of surface area that is open to insects. See *In re Jones*, 162 USPQ 224. Applicant argues that Flynn has elements 30, 32 as different portions of the same passageway which is the same as applicant. Applicant further states that there is nothing to show that elements 30, 32 are different funnels, but see Figs. 1-2 which show the funnel portions as different elements having different profiles or slopes. Inherently funnel insert 30 is removable from funnel 32. Hence the prior art references teach or suggest all of the claim limitations and a combination of the prior art references can be made.

(11) Related Proceeding(s) Appendix

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

KR



KURT ROWAN
PRIMARY EXAMINER
GROUP 3200

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Conferees:

Jeff Gellner

Frank Palo

Francis T. Palo

A handwritten signature in black ink, appearing to read "Jeff Gellner", written over the printed name.